

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
DOCKET NO. 5:09CR27-RLV**

UNITED STATES OF AMERICA)
)
)
v.)
)
BERNARD VON NOTHAUS)
)

In Re: PETITION OF MICHAEL LUNNON

**ORDER GRANTING IN PART AND DISMISSING IN PART
PETITION OF MICHAEL LUNNON**

WHEREAS, on November 10, 2014, the Court entered a Memorandum and Order (Doc. 270) affirming the jury's verdicts of guilty to Counts One, Two, and Three in the Superseding Bill of Indictment.

WHEREAS, on February 25, 2015, the Court entered the Amended (Third) Preliminary Order of Forfeiture (Doc. 297) forfeiting certain coins, metals, and other property to the United States.

WHEREAS, Petitioner Michael Lunnon filed two Petitions (Docs. 380 & 572) claiming ownership of \$12,478.73 electronic Liberty Dollars equal to 623.94 ounces of silver, a total of one (1) ounce of gold from warehouse receipts, a total of 86.2 ounces of silver from warehouse receipts, and two hundred (200) \$10 silver Peace dollars.

WHEREAS, Petitioner's claims for \$12,478.73 electronic Liberty Dollars equal to 623.94 ounces of silver, a total of one (1) ounce of gold from warehouse receipts, and a total of 86.2 ounces of silver from warehouse receipts are based on documentation and/or a plausible factual explanation that comports with the information known to the United States and the Court and that satisfies 21 U.S.C. § 853(n)(6), and the United States herein moves that the

aforementioned portion be granted.

WHEREAS, Petitioner also claims two hundred (200) \$10 silver Peace dollars, purchased in October of 2007, which the United States contends in its Motion were previously finally forfeited to the United States as contraband *per se*.

WHEREAS, based on the evidence, the Court has ruled in this case that coins minted after the warning by the United States Mint to the Liberty dollar organization and the Defendant on September 14, 2006 were counterfeit. *See* Memorandum and Order, at 7 (Doc. 270; Memorandum and Order (First Preliminary Order of Forfeiture) at 18 (Doc. 285).

WHEREAS, the Court has ruled in this case that “Items that are considered ‘contraband’ or ‘counterfeit’ under Section 492 are deemed illegal *per se* and automatically forfeited without having to satisfy the otherwise applicable forfeiture procedures.” Memorandum and Order (First Preliminary Order of Forfeiture) at 11 (Doc. 285) (citing *Helton v. Hunt*, 330 F.3d 242, 247-48 (4th Cir. 2003) at n. 10). The Court has further defined contraband in this case as “properties that no person or entity other than the United States may have a property right or interest in them.” Consent Order and Judgment of Forfeiture, Doc. 296.

IT IS THEREFORE ORDERED THAT:

1. The Petition of Michael Lunnon is granted in part, with said portion to be granted consisting of \$12,478.73 electronic Liberty Dollars equal to 623.94 ounces of silver, a total of one (1) ounce of gold from warehouse receipts, and a total of 86.2 ounces of silver from warehouse receipts. This portion is granted based on information known to the United States and the Court, and which satisfies 21 U.S.C. § 853(n)(6), and;
2. Petitioner is ordered to send the original warehouse receipts to the United States at the address:

United States v. Bernard Von Nothaus
Attn: Thomas R. Ascik
Office of the United States Attorney
100 Otis Street, Room 233
Asheville, North Carolina 28801

3. The Petition of Michael Lunnon is dismissed to the extent that the Petition claims two hundred (200) \$10 silver Peace dollars, because this portion of the Petition is for coins finally forfeited as contraband *per se*. Therefore, pursuant to Fed. R. Crim. P. 32.2(c)(1)(A), this portion of the Petition is dismissed for the reason that the Petition fails to state a claim upon which relief may be granted and Petitioner does not have standing.
4. Distribution of property by the United States to the Petitioner shall not occur until a Final Order of Forfeiture is entered by the Court.

SO ORDERED.

Signed: December 10, 2015



Richard L. Voorhees
United States District Judge

